
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

USANA HEALTH SCIENCES, INC.,

Plaintiff,

v.

SMARTSHAKE US, INC., a Pennsylvania corporation; DEVPAT AB, a Swedish limited company; and MIKAEL NILSSON, an individual,

Defendant.

**MEMORANDUM DECISION AND
ORDER GRANTING [39] MOTION TO
EXTEND SERVICE DEADLINE**

Case No. 2:17-cv-00139-DN

District Judge David Nuffer

Plaintiff USANA Health Sciences, Inc. moves for an additional sixty days to “effect service on the Foreign Defendants,” DevPat AB and Mikael Nilsson.¹ Defendants oppose the motion and argue that the Motion should be denied because USANA failed to “carry its burden of showing ‘good cause’” as required by Federal Rule of Civil Procedure 4(m).² USANA replies in support of its motion.

¹ Plaintiff USANA Health Sciences, Inc.’s Motion to Formally Extend Service Deadline and Memorandum in Support Thereof (Motion) at 2, docket no. 39, filed May 25, 2017.

² Response to Plaintiff USANA Health Sciences, Inc.’s Motion to Formally Extend Service Deadline, docket no. 41, filed May 30, 2017.

BACKGROUND

USANA filed the complaint on February 24, 2017.³ Defendant SmartShake US, Inc. was served on March 1, 2017.⁴ SmartShake appeared on March 17, 2017.⁵ The remaining defendants, alleged to be located in Sweden,⁶ are yet to be served or appear.

DISCUSSION

It is not necessary to get mired in the many details the parties provide regarding translation of the complaint and other related issues. Federal Rule of Civil Procedure 4(m) does not apply to the foreign defendants. On its face, Rule 4(m) states that it “does not apply to service in a foreign country” of individuals or corporations. Therefore, at this time, USANA need not comply with the requirement of establishing good cause.

ORDER

IT IS HEREBY ORDERED that Plaintiff USANA Health Sciences, Inc.’s Motion to Formally Extend Service Deadline and Memorandum in Support Thereof⁷ is GRANTED. USANA has sixty additional days to serve foreign defendants DevPat AB and Mikael Nilsson or until and including July 25, 2017.

Signed June 2, 2017.

BY THE COURT



District Judge David Nuffer

³ Complaint, docket no. 2, filed February 24, 2017.

⁴ Summons Returned Executed by USANA Health Sciences as to SmartShake, docket no. 8, filed March 2, 2017.

⁵ Notices of Appearance on Behalf of SmartShake, docket no 9 and docket no. 10, filed March 17, 2017.

⁶ Complaint ¶¶ 2, 4.

⁷ Docket no. 39, filed May 25, 2017.